

HOUSE BILL No. 1240

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15.

Synopsis: Medicaid overpayments. Provides that certain Medicaid providers who have been overpaid do not owe the state interest. Allows the secretary of family and social services to reduce the amount of interest due on an overpayment in certain situations.

Effective: July 1, 2005.

Becker, Brown C, Budak

January 6, 2005, read first time and referred to Committee on Public Health.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1240

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-15-13-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the office of the
3 secretary believes that an overpayment to a provider has occurred, the
4 office of the secretary may do the following:

5 (1) Notify the provider in writing that the office of the secretary
6 believes that an overpayment has occurred.

7 (2) Request in the notice that the provider repay the amount of the
8 alleged overpayment, including interest:

9 **(A) due from the provider; and**

10 **(B) accruing** from the date of overpayment.

11 (b) A provider who receives a notice and request for repayment
12 under subsection (a) may elect to do one (1) of the following:

13 (1) Repay the amount of the overpayment not later than sixty (60)
14 days after receiving notice from the office of the secretary,
15 including interest:

16 **(A) due from the provider; and**

17 **(B) accruing** from the date of overpayment.

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(2) Request a hearing and repay the amount of the alleged overpayment not later than sixty (60) days after receiving notice from the office of the secretary.

(3) Request a hearing not later than sixty (60) days after receiving notice from the office of the secretary and not repay the alleged overpayment, except as provided in subsection (d).

(c) If:

(1) a provider elects to proceed under subsection (b)(2); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider does not owe the money that the office of the secretary believed the provider owed;

the office of the secretary shall return the amount of the alleged overpayment, and **any** interest paid **by the provider**, and pay the provider interest on the money from the date of the provider's repayment.

(d) If:

(1) a provider elects to proceed under subsection (b)(3); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider owes the money;

the provider shall pay the amount of the overpayment, including interest **due from the provider and accruing** from the date of the overpayment.

(e) Interest that is due under this section shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(f) Interest on an overpayment to a provider is not due from the provider if the overpayment is the result of an error of:

(1) the office; or

(2) a contractor of the office;

as determined by the office of the secretary.

(g) If interest on an overpayment to a provider is due from the provider, the secretary may, in the course of negotiations with the provider regarding an appeal filed under subsection (b), reduce the amount of interest due from the provider.

~~(f)~~ **(h)** Proceedings under this section are subject to IC 4-21.5.

SECTION 2. IC 12-15-21-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The rules adopted under section 2 of this chapter must include the following:

- (1) Providing for prior review and approval of medical services.
- (2) Specifying the method of determining the amount of reimbursement for services.
- (3) Establishing limitations that are consistent with medical necessity concerning the amount, scope, and duration of the services and supplies to be provided. The rules may contain limitations on services that are more restrictive than allowed under a provider's scope of practice (as defined in Indiana law).
- (4) Denying payment or instructing the contractor under IC 12-15-30 to deny payment to a provider for services provided to an individual or claimed to be provided to an individual if the office after investigation finds any of the following:
 - (A) The services claimed cannot be documented by the provider.
 - (B) The claims were made for services or materials determined by licensed medical staff of the office as not medically reasonable and necessary.
 - (C) The amount claimed for the services has been or can be paid from other sources.
 - (D) The services claimed were provided to a person other than the person in whose name the claim is made.
 - (E) The services claimed were provided to a person who was not eligible for Medicaid.
 - (F) The claim rises out of an act or practice prohibited by law or by rules of the secretary.
- (5) Recovering payment or instructing the contractor under IC 12-15-30-3 to recover payment from a provider for services rendered to an individual or claimed to be rendered to an individual if the office after investigation finds any of the following:
 - (A) The services paid for cannot be documented by the provider.
 - (B) The amount paid for such services has been or can be paid from other sources.
 - (C) The services were provided to a person other than the person in whose name the claim was made and paid.
 - (D) The services paid for were provided to a person who was not eligible for Medicaid.
 - (E) The paid claim rises out of an act or practice prohibited by law or by rules of the secretary.

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(6) Recovering interest **due from a provider:**

(A) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report; and

(B) accruing from the date of overpayment; on amounts paid to ~~a~~ **the** provider that are in excess of the amount subsequently determined to be due the provider as a result of an audit, a reimbursement cost settlement, or a judicial or an administrative proceeding.

(7) Paying interest to providers:

(A) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report; and

(B) accruing from the date that an overpayment is erroneously recovered by the office until the office restores the overpayment to the provider.

(8) Establishing a system with the following conditions:

(A) Audits may be conducted by the office after service has been provided and before reimbursement for the service has been made.

(B) Reimbursement for services may be denied if an audit conducted under clause (A) concludes that reimbursement should be denied.

(C) Audits may be conducted by the office after service has been provided and after reimbursement has been made.

(D) Reimbursement for services may be recovered if an audit conducted under clause (C) concludes that the money reimbursed should be recovered.

SECTION 3. IC 12-15-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. An agreement under section 2 of this chapter:

(1) must include a provision for the collection of **any** interest **due from the provider** on the amount of the overpayment; and

(2) may include any other provisions agreed to by the administrator and the provider.

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